

REMARKS

Claims 1, 11 and 19 have been cancelled. Support for new claims 25-27 can be found in original claim 16, for example. Claim 23b has been amended to address the 35 U.S.C. §112 rejection. No new matter has been added.

Rejections under 35 USC §112

At the Examiner's suggestion misnumbered claim 23b (last claim in listing of claims) has been renumbered as claim 24.

Rejections under 35 USC §103

Claims 1-23b are rejected under 35 USC §103 as allegedly being unpatentable over Laughlin (US 2003-0019504) in view of Ziegler (US 5,232,688) and further in view of Sottery et al. (US 5,229,104).

Laughlin (US 2003-0019504) concerns a method of and apparatus for automatically coating the human body. The system includes an apparatus, which can atomize a coating composition. Numerous tanning compositions are disclosed.

On page 8 of the Office Action, the Examiner points to paragraph [0255] of Laughlin and alleges that Laughlin teaches application of sun tanning compositions at 26.6 to 43.3°C. However, paragraph [0255] states:

"To keep the temperature to a warm, pleasant experience, four halogen lamps (250 watts each) can be added to the system to provide both illumination and heat. A coating chamber temperature of 80° F. to 110°F is preferred, with 90°F. to 100°F being more preferred. "

Laughlin is clearly referring to the environment in which the solution may be applied (i.e., coating chamber) and not the temperature of the solution itself. Thus, Laughlin is silent regarding a method where the solution itself is brought to

a temperature which is elevated relative to room temperature.

Furthermore, compositions 1-6 on page 4 of Laughlin contain from 64.1% to 97 % water and cannot be used in the form or a bath tablet, a bath salt and/or a bath capsule. Thus, with regards to claims 16, 25, 26 and 27, Laughlin is particularly silent regarding a self tanning formulation in the form of a bath tablet, a bath salt and/or a bath capsule.

Ziegler (US 5,232,688) is relied upon for teaching a cosmetic composition comprising: (i) from about 0.1 to about 40% by weight of a C₃-C₂₄ alpha -hydroxy substituted ketone or aldehyde; (ii) from about 0.1 to about 20% by weight of a polyacrylamide; and (iii) an effective amount of a pharmaceutically acceptable vehicle for delivering components (i) and (ii) to skin. Ziegler teaches a typical W/O emulsion and does not cure the deficiencies of Laughlin. Ziegler is silent regarding a tanning method where the solution itself is diluted and brought to a temperature, which is elevated relative to room temperature before application.

Like Ziegler, Sottery et al. (US 5,229,104) teaches a composition comprising cholesterol, sunscreens, dihydroxyacetone and propylene glycol. The composition of Sottery et al. is a typical oil-in-water composition. Sottery et al. also does not cure the deficiencies of Laughlin. Sottery does not teach or suggest a tanning method where the solution is diluted and brought to a temperature that is elevated relative to room temperature before application.

Even a combination of the references cannot render the claims obvious. None of the references teach or suggest a method of tanning in which a self-tanning substance is dissolved in water, brought to a temperature that is elevated relative to room temperature and applied to the human body.

Thus, based on the above remarks it is respectfully requested that the rejections under 35 USC §103 be withdrawn.

Double Patenting Rejection

US 10/930,778 is abandoned. Thus, it is respectfully submitted that this ground of rejection is moot. With regards to the obviousness-type double patenting in view of US 11/997,629, Applicants wish to hold this rejection in abeyance until such time as allowable subject matter has been identified.

No fees are believed to be due with this response; however, the Commissioner is hereby authorized to charge any fees associated with this response to Deposit Account No. 13-3402.

Respectfully submitted,

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